



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश, राज्यशासन द्वारा प्रकाशित

शिमला, वीरवार, ३० अक्टूबर, १९८६/८ कातिक, १९०८

हिमाचल प्रदेश सरकार

LABOUR DEPARTMENT

NOTIFICATION

Shimla-2, the 20th September, 1986

No. 2-21/85-Shram (II).—In exercise of the powers vested in him under section 17 (1) of the Industrial Act, 1947, the Governor of Himachal Pradesh, is pleased to publish the award of Presiding Officer, Labour Court, Himachal Pradesh in the cases detailed below:—

(1) Case No. 37/83

Kutlehar Karamchari Sangh (Forests) V/s Management of Kutlehar Forests Lathiani as Annexure 'A'.

(2) Case No. 58/84

Mehar Singh V/s Principal, Government Ayurvedic College Paprola as Annexure 'B'.

(3) Case No. 465/85

Kutlehar Janglat Karamchari Sangh, Lathiani, V/s Management Kutlehar Forests Raipur Madan as Annexure 'C'.

- (4) Case No. 582/85 Kutlehar Karamchari Sangh V/s Management Kutlehar Forests Una, as Annexure 'D'.
- (5) Case No. 674/85 Workmen of M/s Vitroc Electronic Pvt. Ltd. V/s Management of M/s Vitroc Electronics Pvt. Ltd Cham-baghat, District Solan as Annexure 'E'.
- (6) Case No. 36/86 Miss Vishma Kanti Datt V. S.D.O. Mechanical Sub-Division Gagret Una, Himachal Pradesh as Annexure 'F'.

By order,
ARVIND KAUL,
Commissioner-cum-Secretary.

ANNEXURE 'A'

BEFORE SHRI S.S. KANWAR, PRESIDING OFFICER, LABOUR COURT (CENTRAL)
HIMACHAL PRADESH

Case No. 37 of 1983

Kutlehar Karamchari Sangh (Forests)

.. Petitioner.

Versus

Management of Kutlehar Forests,
Lathiani.

.. Respondent.

Shri P.L. Bery for the petitioners.
Shri R.L. Gupta for the respondent.

AWARD

The parties have arrived at a settlement. They have put in an application for recording of compromise. This application is Ex-C-I according to the compromise, only the claim of Bonus has been acceded to and the amount claimed by each individual will be paid by the respondent management within 15 days of this award.

Sr. No.	Name of workman	Amount of Bonus
1	2	3
		Rs.
1.	Shri Bali Ram	1250.00
2.	Shri Prem Dass	1225.00
3.	Shri Raghubir Singh	1175.00
4.	Shri Balkishan	1175.00
5.	Shri Jagat Ram	1150.00
6.	Shri Rattan Chand	1150.00
7.	Shri Surjit Singh	1150.00
8.	Shri Rattan Paul	950.00
9.	Shri Ramesh Chand	950.00
10.	Shri Ram Krishan	950.00
11.	Shri Pritam Chand	950.00

1	2	3
		Rs.
12.	Shri Surinder Singh	900.00
13.	Shri Om Parkash	900.00
14.	Shri Rajinder Singh	900.00
15.	Shri Kamal Singh	900.00
16.	Shri Suabhash Chand	900.00
17.	Shri Harnam Singh	900.00
18.	Shri Nitya Nand	900.00
19.	Shri Mehar Chand	550.00

In view of this compromise, the dispute referred to this Court *vide* Notification dated 5-3-83, stands settled, I am satisfied that this compromise is a lawful compromise. The reference made to this Court need not to be answered. In view of the compromise, these proceedings are dropped. The compromise Ex. C-I will form Part of this award. No order as to costs.

S. S. KANWAR,
Presiding Officer,
Labour Court 9-6-1986.

ANNEXURE 'B'

BEFORE SHRI S.S. KANWAR, PRESIDING OFFICER, LABOUR COURT, HIMACHAL PRADESH

Case No. 58 of 1984

Mehar Singh

Petitioner.

Versus

Principal Government Ayurvedic College, Paprola.

Respondent.

Shri P.L. Bery for the petitioners.

Shri S.R. Bhardwaj, for the Respondent.

AWARD

Shri Geeta Vidya Peeth Ayurvedic College, Palampur was a private institution. Shri Mehar Singh Petitioner was employed as a Clerk with this College on consolidated monthly emoluments of Rs. 500/-. This institution was taken over by the Government *vide* Notification dated 13-12-81. Deputy Commissioner, Kangra was appointed as Chairman and Administration to run the affairs of the Institution. He terminated the services of petitioner without giving him any notice and without assigning any reasons therefor *vide* order dated 8-6-1978 (Ex.P-2). The Petitioner represented his claim. The Conciliation proceedings were initiated and a reference of the dispute was made to this Court. He has now been employed *vide* appointment letters (Ex. R-1) dated 24-6-1983; EX. R-3 dated 12-9-1983 and letter dated 12-8-1983 (Ex. R.2). The petitioner is now posted as a Clerk. That private Institute stands merged with the Ayurvedic College, Paprola, which is a Government Institution.

The Petitioner has raised the dispute for the regularisation of break in service from the date of the termination till re-employment with continuity of past service for the purposes of seniority and service benefits.

The dispute between the Management and the Petitioner has been referred to this Court for decision *vide* notification dated 11-5-1984.

The question referred to this Court which translated in English will be read as under:—

“Whether the termination of the services of Shri Mehar Singh Ex-employee was in order and in accordance with the law and rules. If not, to what relief and what amount of compensation he is entitled to”?

After receipt of the reference to this Court, notices to the parties were issued. The petitioner has put in the claim petition and has stated that he was drawing a sum of Rs. 500/-per month from Shri Geeta vaidya Peeth Ayurvedic College Palampur where he was employed as a Clerk and that his services were not taken when the services of other employees of the Geeta Vidya Peeth Ayurvedic Collage, Palampur were taken over by the Government *vide* notification dated 29th April, 1978 and that he raised a dispute and was re-employed by the Government as a Clerk with the Ayurvedic College, Palampur. He has claimed the benefits of the continuity of the service including seniority and other service benefits and also the wages for the period he remained out of job on account of the wrongful termination of his service by the Deputy Commissioner, Kangra.

The respondent management has filed the reply and resisted the claim. In this reply, the termination of the services of the petitioner has not been justified. It has only been stated that the services of the petitioners has been taken over *w.e.f.* 19-9-1984 and that he is not entitled to any relief claimed by him.

From the averments of the parties the following issues arose and framed by me on 23-12-84.

1. Whether the order of termination of services of the petitioner on 8-6-78 is illegal, invalid and nonest. If not, to what effect ?
2. Whether the petitioner is entitled to the back wages *w.e.f.* 8-6-1978 to 19-9-1983. If so from when ?
3. If issue No. 1 is proved, whether the petitioner is entitled to all the benefits of service ?
4. Relief.

(DPP)

FINDINGES

Issue No. 1 & 3 :

The service of the petitioner were terminated by the Deputy Commissioner Kangra *vide* order dated 8-6-1978, the copy of which is Ex. P-2. The termination has not been justified. The termination of the services of the petitioner is illegal, void and inoperative. The services of the Petitioner should have been taken over along with the other employees. The Government was duty-bound to take over the services of the petitioner when they have taken over the services of the other employees of Shri Geeta Vidya Peeth Ayurvedic Mahavidyalya. Palampur as is required under section 25 FF of the Industrial Disputes Act, 1947. The order Ex.P-2 dated 8-6-1978 is therefore illegal, invalid and nonest. This order is therefore quashed. The petitioner will be deemed to be in service inspite of the termination of his services by this illegal order.

I decide these issues accordingly in favour of the petitioner and against the respondent and hold that petitioner is entitled to all the benefits of the service inspite the order dated 8-6-1978.

The services of the Petitioner have been terminated *vide* order dated 8-6-1971 and he was re-employed *w.e.f.* 19-9-1983. This fact is established from the joining report Ex. P-4. The appointment letters Ex. P-3, P-5, R-1, R-2 and R-3 show that the Petitioner had not been in service from the period 8-6-1978 to 19-9-1983. His monthly emoluments were Rs. 500/- p. m.

He is entitled to his wages for the period @ Rs. 500/- per month. This amount when calculated comes to Rs. 31,500/- (Rupees Thirty one thousand and five hundred) only.

The Petitioner is entitled to recover this amount from the respondent.

I decide this issue accordingly in favour of the Petitioner and against the Respondent.

RELIEF

In view of the findings recorded above, the petitioner is entitled to recover a sum of Rs. 31,500/- for his back wages @ Rs. 500/- per month. The Petitioner is also entitled to all the benefits of service in spite of the fact that he was not in employment during the period 8-6-1978 to 19-9-1983. This break in service was forced on the petitioner and he is entitled to count his service for earning all the service benefits. The respondent will pay him the arrears of wages within a period of two months from the publication of this Award in Government Gazette, failing which the Petitioner may recover this amount from the respondent in accordance with the Law. The Petitioner is allowed the costs. The costs are assessed at Rs. 200/- of these proceedings. The copy of the award may be given to the parties free of costs.

S. S. KANWAR,
Presiding Officer,
Labour Court,
Himachal Pradesh 15-6-1986.

ANNEXURE 'C'

BEFORE SHRI S. S. KANWAR, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HIMACHAL PRADESH

Case No. 465 of 1985

Kutlehar Janglat Karamchari Sangh, LathianiPetitioner.
Versus
Management Kutlehar Forests, Raipur MadanRespondent.

Shri P.L. Bery for the Petitioner.
Shri R.L. Gupta for the respondent.

AWARD

The parties have arrived at a compromise. The terms of the compromise are mentioned in the application put in by the parties for recording the compromise. This application has been marked as Ex. C-I. In this reference, only workmen have put in their claim petitions. They are as under:—

1. Shri Balkrishan s/o Shri Rulia Ram V. Arian P.O. Jasaur, Tehsil Bangana, District Una, Himachal Pradesh.
2. Shri Raghbir Singh s/o Shri Sant Ram, Village Bahi, P.O. Talmehra, Tehsil Bangana, District Una.
3. Shri Rattan Chand s/o Shri Nikko Ram, Village and P.O. Arloo, Bangana.
4. Shri Jagat Ram V. P.O. Raipur, Tehsil Bangana, Una, Himachal Pradesh.
5. Shri Suram Singh s/o Pada Ram, Village Bahi, Talmehra, Bangana, Una.
6. Shri Ramesh Chand Village Bedher, P.O. Tanoh, Bangana, Una.
7. Shri Ram Krishan s/o Bajiroo, Village and P.O. Barsar, District Hamirpur.
8. Shri Rattan Pal s/o Jai Ram, Village and P.O. Chamiari, Bangana, Una.
9. Shri Pritam Chand, Village Dhundla, Tehsil Bangana, Una.
10. Shri Rajinder Singh s/o Shri Bhagi Rath, Salnoo, P.O. Nichlibather, Tehsil Sadar, District Bilaspur.

11. Shri Om Parkash s/o Sant Ram, Village & P.O. Upperla Tiloo, Amb, Una.
12. Shri Surinder Singh s/o Shri Kapoor Singh, Village and P.O. Sapru, Amb. Una.
13. Shri Nitya Nand s/o Shri Kishan Chand, Malanger, Una.
14. Shri Kamal Singh s/o Shri Baboo Ram Village Jagat Khana, Swamipur, Una.
15. Shri Harnam Singh s/o Basant Singh Village and P.O. Chamiari, Bangana, Una.
16. Shri Mehar Chand Village Tiar, P. O. Khurwanin, Bangana, Una.
17. Shri Rattan Chand s/o Shri Biroo Ram, Village Ghamarth, P.O. Dhangota, Tehsil Barsar, District Hamirpur.

According to the terms of compromise, these retrenched workmen will be offered employment in the category of class of service to which they belong, if and when there is a vacancy. The respondent management has categorically agreed to abide by the assurance given to this Tribunal. I am satisfied that the parties have arrived at a compromise. The terms of which are stated in Ex. C-I. In view of this compromise, no dispute survives. The reference made to this Tribunal *vide* notification, dated 29-5-1985, need not be answered in view of this compromise. These proceedings are dropped. The parties are left to bear their own costs:

The terms of compromise Part-C-I will form part of this award.

S. S. KANWAR,
Presiding Officer,
Industrial Tribunal 8-6-1986.

ANNEXURE 'D'

BEFORE SHRI S.S. KANWAR, PRESIDING OFFICER, LABOUR COURT (CENTRAL)
HIMACHAL PRADESH

Case No. 582 of 1985

Kutlehar Karamchari Sangh

Versus

..Petitioner.

Management Kutlehar Forests, Una

..Respondent.

Shri Piare Lal Bery for the Petitioners.

Shri R.L. Gupta for the respondent.

AWARD

The parties have arrived at a settlement. They have put in an application for recording of compromise. Out of the various workmen within the reference made to this Court *vide* Notification dated 29-5-1985, only one workman Shri Beli Ram has put in his claim petition. No other workmen has come forward to put in their claim petitions. In view of this situation, the claim of the other workmen cannot be settled.

The association of the workmen *i.e.* 'Sangathan' does not claim as well. Bali Ram workman has arrived at a compromise with the respondent management which is witnessed by application Ex. C-I. I am satisfied that this compromise is a lawful compromise. According to this compromise, the workman will be deemed to have been retrenched and will be paid retrenchment compensation by the respondent management within 15 days of this award. I have heard the Authorised Representatives of both the parties. I am satisfied that this compromise is a lawful compromise. This reference need not be answered. These proceedings are dropped. The compromise Ex-C-I will form part of this award. No order as to cost.

S. S. KANWAR,
Presiding Officer,
Labour Court 8-6-1986.

ANNEXURE 'E'

BEFORE SHRI S. S. KANWAR, PRESIDING OFFICER, LABOUR COURT, SHIMLA

Case No. 674 of 1985

Workmen of M/s Vitroc Electronics Pvt. Ltd.

.. Petitioners.

Versus

Management M/s Vitroc Electronics Pvt. Ltd. Chambaghat, District Solan .. Respondents.

Shri Narain Dass for the Petitioner.

Shri R.L. Gupta for the respondent.

AWARD

Heard. I have examined the reference made to this Tribunal. *prima facie* the reference is vague. The Authorised Representative of the workmen wants to withdraw these proceedings with permission to initiate fresh one in accordance with law. Permission is granted. In view of the statement made by the Authorised Representative of the workmen, the reference made need not be answered. No order as to costs of these proceedings. The proceedings are dropped.

S. S. KANWAR,
Presiding Officer,
Industrial Tribunal Shimla 22-6-1986.

ANNEXURE 'F'

BEFORE SHRI S. S. KANWAR, PRESIDING OFFICER, LABOUR COURT, SHIMLA

Case No. 36 of 1986

Miss Vishwa Kanti Datt

.. Petitioner.

Versus

Sub-Divisional Officer, Mechanical
Sub-Division, Gagret Una, Himachal Pradesh.

.. Respondent.

None for the parties.

AWARD

This case is being called again and again since morning. It is 2.30 P.M. This reference cannot be answered and in the absence of evidence, no award can be made. The proceedings are, therefore, dropped. No order as to costs.

S. S. KANWAR,
Presiding Officer,
Labour Court, Shimla 22-6-1986.